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**OFFICE OF AUDIT
AUDIT OF CLIFFORD
SEPARATION AGREEMENT
STATUS REPORT
PRELIMINARY RESULTS
AUGUST 21, 2013**

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NOT AGAIN**



AUDIT OBJECTIVE

The objective of the audit is to determine the financial prudence of the settlement agreement, including but not limited to:

- Reasonableness of the settlement terms and dollar amounts
- the sufficiency of the process followed for reaching the settlement terms
- the effectiveness of the process for approving the agreement

The sources of information include public testimony provided before the Regional Transportation Authority (RTA) and the Mass Transit Committee of the Illinois House of Representatives, and other publically available documents. Also, we listened to certain audio files provided by Metra relating to Executive Sessions of the Metra board. In addition, interviews were conducted with Metra Directors, outside counsel, Metra employees and other individuals as deemed appropriate.

We relied on Metra to provide all documents-RTA has no Subpoena powers

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OTHER INVESTIGATIONS

Other Investigative Agencies are conducting their own investigations:

- Office of Executive Inspector General
- Office of Legislative Inspector General
- Federal Railroad Administration

We did not review these areas other than to make sure all information had been referred to the responsible investigative agency.

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CURRENT STATUS

- Audit is approximately 90 percent complete
- Continue to review documents provided by Metra and its representatives, public testimony and publicly available documents
- Completing analysis of the process that was utilized to evaluate and approve the separation settlement

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PRELIMINARY RESULTS

- Process was inadequate and not sufficiently documented
- Settlement was not financially prudent

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BASIS OF DETERMINATION

Metra Board determined financial reasonableness based on advice of outside counsel and the mediation:

- Mostly verbal-no benchmarks or documentation
- Post-employment benefits appear high
- Length of Term of post-employment payments

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DOCUMENTATION

There is a lack of actual documents available to support many of the decision points:

- the internal investigation conducted by Roger Heaton
- the referral of information to the OEIG
- the mediator's recommendation as a result of the 12-hour mediation
- the cost/benefit analysis of the settlement options

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APPROVAL PROCESS

The process followed for evaluating and approving the settlement was not sufficiently robust

Lack of detailed analysis, thorough documentation and full participation by all members

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INSURANCE CONSIDERATION

The process did not include evaluating the impact of insurance on any potential litigation or settlement:

- Metra's Employment Practices liability insurance coverage has a \$150,000 deductible, and \$10 million cap
- Insurance policy would provide coverage if lawsuit was filed
- Paid \$98,000 for policy
- Should have been considered by all of the board members

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PERFORMANCE EVALUATIONS

2011

- No established Performance Evaluation process for the Executive Director
- Executive Director presented his Accomplishments to Board
 - Clifford considered this his “Performance Evaluation”

2012

- No established Performance Evaluation process for the Executive Director
- Performance Criteria not Established at beginning of year
- Three person “Ad Hoc” committee was created by the Employment Practices Committee to perform the initial parts of the CEO’s performance review
- Ad Hoc committee consisted of three members (O’Halloran, Huggins & Partelow)
 - Two were vocal regarding their desire for the CEO to leave the position (O’Halloran, Huggins)

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PERFORMANCE ISSUES

Numerous Problems were identified with Executive Director's Performance that needed to be addressed:

- Safety Issues
 - Not filing safety positions
 - Elimination of "Safety Captain" program
- Use of expensive consultants
- Declining Ridership with no action plan
- Relationship with Union Pacific and BNSF
- Grant Management Issues
- Failure to keep Board informed
- Granting Vacation and Benefits outside company guidelines
- Failure to Address Police Overtime Issue
- Material Weakness in Financial System



INADEQUATE FEEDBACK

- Board did not admonish him for negative performance (except hiring of Wiggins)
- Board periodically provided positive comments on his performance
- The lack of negative feedback to the ED regarding his performance, and periodic accolades from the Board lead him to believe that he was performing adequately



ADDITIONAL CONSIDERATIONS

- Board's reliance on outside counsel creates confusion, and increases costs
- Board also retains its own Public Relations firm which is duplicative and creates confusion because it is retained through outside counsel
- Board needs to decide on roles & responsibilities of Chairman and Executive Director
- Significant issues facing agency needs to be addressed quickly by a single Executive Director who is knowledgeable of transportation and railroad operations

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NEXT STEPS

- Continue to review the information provided to reach a final conclusion as to the process followed to determine the settlement terms
- Confirm the final steps in the process for approving the settlement agreement
- Provide recommendations regarding Metra's Governance structure including:
 - Governance procedures to avoid similar situations going forward
 - Performance evaluation process for the Executive Director position
 - Performance measures for Board reporting and monitoring
- Provide recommendations regarding policies governing employee severance

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